F I L E D
United States Court of Appeals
Tenth Circuit

OCT 4 1999

PATRICK FISHER
Clerk

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

JAMES ROBINSON,

     Petitioner - Appellant,

vs.

  No. 99-3172
  (D.C. No. 99-3169-RDR)
  (D. Kan.)

UNITED STATES OF AMERICA,

     Respondent - Appellee.

ORDER AND JUDGMENT[*]

Before **ANDERSON**, **KELLY**, and **BRISCOE**, Circuit Judges.[**]

Mr. Robinson, an inmate appearing pro se, appeals from the district court's

judgment dismissing his habeas petition, 28 U.S.C. § 2241, without prejudice. On

appeal, he argues that his conviction was invalid for lack of jurisdiction and that

the government withheld exculpatory evidence. Of course, the validity of his

conviction must be challenged in a § 2255 motion; a § 2241 petition goes to the

---

[*] This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

[**] After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1 (G). The cause is therefore ordered submitted without oral argument.

execution of the sentence. Only if the opportunity to challenge the validity of the conviction is "inadequate or ineffective" under § 2255 may relief be sought under § 2241. See Bradshaw v. Story, 86 F.3d 164, 166 (10th Cir. 1996). Mr. Robinson argues that his opportunity to challenge his conviction under § 2255 was ineffective because he was denied a certificate of appealability. Failure to obtain relief on a previous § 2255 motion does not make that remedy inadequate or ineffective. Id. Accordingly, Mr. Robinson's claims are not proper under § 2241, and the district court properly dismissed the petition.

AFFIRMED.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge